

JSC CMA
John L. Lipez
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MANDATE
United States Court of Appeals
For the First Circuit

No. 07-1187

GERALDINE FAVALORO,
Plaintiff, Appellant,

v.

PRESIDENT AND FELLOWS OF HARVARD COLLEGE, ET AL,
Defendants.

Before

Torruella, Lynch and Lipez,
Circuit Judges.

JUDGMENT

Entered: June 12, 2007

This is an appeal from an order of the district court, entered December 19, 2005, granting the motions to dismiss filed by Harvard College and John Gentile. Appellant's complaint alleged the possible mishandling of the remains of her mother, who had arranged to have her body donated to Harvard, upon her death, under the Massachusetts Anatomical Gift Act. Mass. Gen. Laws ch. 113. The district court determined that both Harvard and Mr. Gentile, a licensed funeral director hired by Harvard, were covered by the statutory provision immunizing persons from liability for actions taken under the statute in good faith. The court viewed the complaint against the defendants as amounting to no more than assertions of negligence unaccompanied by allegations of bad faith. The court's decision, based on its interpretation of the Massachusetts Anatomical Gift Act, is fully supported by the subsequent decision of the Massachusetts Supreme Judicial Court in Carey v. New England Organ Bank, 446 Mass. 270, 843 N.E.2d 1070 (2006), which analyses the state statute in depth.

Accordingly, the order of dismissal is affirmed and Mr.

Gentile's motion for summary disposition is granted. 1st Cir. R. 27.0(c).

By the Court:

Richard Cushing Donovan, Clerk.

Certified and Issued as Mandate
under Fed. R. App. P. 41.

Richard Cushing Donovan, Clerk


Deputy Clerk

Date: 8/4/07

By: JULIE GREGG
Operations Manager.

[cc: David Charlip, Esq., Lisa DeBrosse Johnson, Esq.,
Edward Leibensperger, Esq., Melissa Nott, Esq., Douglas Alexander
Robertson, Esq., Anthony Brighton, Esq., William Smith, Esq.,
William Ahern Jr., Esq., MandiJo Hanneke, Esq.,
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